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7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

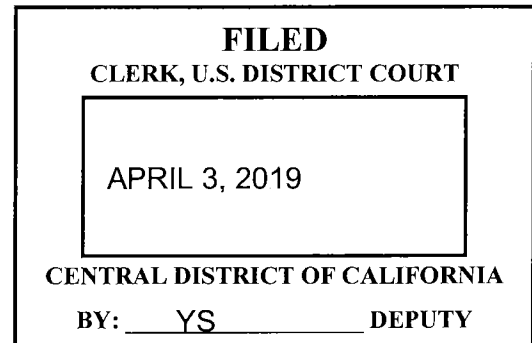
10 K.L., a minor by and through his  
guardian *ad litem* NIJAE MCGHEE,  
11 individually and as successor-in-interest  
to KENNETH LEWIS JR.; KENNETH  
12 LEWIS SR., individually; and  
BELINDA MILLER, individually;

13  
14 **Plaintiffs,**

15 **vs.**

16 COUNTY OF LOS ANGELES; RYAN  
17 ROTHROCK, individually; and DOES  
18 2-10, inclusive,

19 **Defendants.**  
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Case No. 2:18-cv-04910-CBM-SK  
*Hon. Consuelo B. Marshall*

**FIRST AMENDED COMPLAINT  
FOR DAMAGES**

1. Fourth Amendment—Detention and Arrest (42 U.S.C. § 1983)
2. Fourth Amendment—Detention and Arrest (42 U.S.C. § 1983)
3. Fourth Amendment—Excessive Force (42 U.S.C. § 1983)
4. Fourth Amendment—Denial of Medical Care (42 U.S.C. § 1983)
5. Substantive Due Process (42 U.S.C. § 1983)
6. Municipal Liability—Ratification (42 U.S.C. § 1983)
7. Municipal Liability—Inadequate Training (42 U.S.C. § 1983)
8. Municipal Liability—Unconstitutional Custom, Practice, or Policy (42 U.S.C. § 1983)
9. False Arrest/False Imprisonment
10. Battery (Wrongful Death)
11. Negligence (Wrongful Death)
12. Violation of Cal. Civil Code § 52.1

**DEMAND FOR JURY TRIAL**



1           5. Plaintiff K.L. is a minor individual residing in County of Los Angeles,  
2 California, and is the natural born son to DECEDENT. K.L. sues by and through  
3 his natural mother and guardian *ad litem*, NIJAE MCGHEE. K.L. sues both in his  
4 individual capacity as the son of DECEDENT and in a representative capacity as a  
5 successor-in-interest to DECEDENT pursuant to California Code of Civil Procedure  
6 § 377.30. K.L. seeks survival damages, including pre-death physical and mental  
7 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
8 damages under federal and state law.

9           6. Plaintiff KENNETH LEWIS SR. ("LEWIS SR.") is an individual  
10 residing in County of Los Angeles, California, and is the natural father of  
11 DECEDENT. LEWIS SR. sues in his individual capacity as the father of  
12 DECEDENT. LEWIS SR. seeks wrongful death damages.

13           7. Plaintiff BELINDA MILLER ("MILLER") is an individual residing in  
14 County of Los Angeles, California, and is the natural mother of DECEDENT.  
15 MILLER sues in her individual capacity as the mother of DECEDENT. MILLER  
16 seeks wrongful death damages.

17           8. At all relevant times, Defendant COUNTY OF LOS ANGELES  
18 ("COUNTY") is and was a duly organized public entity, form unknown, existing  
19 under the laws of the State of California. COUNTY is a chartered subdivision of the  
20 State of California with the capacity to be sued. COUNTY is responsible for the  
21 actions, omissions, policies, procedures, practices, and customs of its various agents  
22 and agencies, including the County of Los Angeles Sheriff's Department and its  
23 agents and employees. At all relevant times, Defendant COUNTY was responsible  
24 for assuring that the actions, omissions, policies, procedures, practices, and customs  
25 of the and its employees and agents complied with the laws of the United States and  
26 of the State of California.

27           9. At all relevant times, COUNTY was the employer of Defendant DOES  
28 1-10.

1           10. Defendant RYAN ROTHROCK ("DEPUTY ROTHROCK") is a  
2 sheriff's deputy for the County of Los Angeles Sheriff's Department. DEPUTY  
3 ROTHROCK was acting under the color within the course and scope of his duties as  
4 a sheriff's deputy for the County of Los Angeles Sheriff's Department. DEPUTY  
5 ROTHROCK was acting within the complete authority and ratification of his  
6 principal, Defendant COUNTY.

7           11. Defendants DOES 2-5 ("DOE DEPUTIES") are sheriff's deputies for  
8 the County of Los Angeles Sheriff's Department. DOE DEPUTIES were acting  
9 under color of law within the course and scope of their duties as deputies for the  
10 County of Los Angeles Sheriff's Department. DOE DEPUTIES were acting with  
11 the complete authority and ratification of their principal, Defendant COUNTY.

12           12. Defendants DOES 6-8 are supervisory deputies for the County of Los  
13 Angeles Sheriff's Department who were acting under color of law within the course  
14 and scope of their duties as sheriff's deputies for the County of Los Angeles  
15 Sheriff's Department. DOES 6-8 were acting with the complete authority and  
16 ratification of their principal, Defendant COUNTY.

17           13. Defendants DOES 9-10 are managerial, supervisory, and  
18 policymaking employees of the County of Los Angeles Sheriff's Department, who  
19 were acting under color of law within the course and scope of their duties as  
20 managerial, supervisory, and policymaking employees for the County of Los  
21 Angeles Sheriff's Department. DOES 9-10 were acting with the complete authority  
22 and ratification of their principal, Defendant COUNTY.

23           14. On information and belief, DOES 1-10 were residents of the County of  
24 Los Angeles.

25           15. In doing the acts and failing and omitting to act as hereinafter  
26 described, Defendant DOE DEPUTIES 1-5 were acting on the implied and actual  
27 permission and consent of Defendants DOES 6-10.

28

1           16. In doing the acts and failing and omitting to act as hereinafter  
2 described, Defendant DOES 1-10 were acting on the implied and actual permission  
3 and consent of the COUNTY.

4           17. The true names and capacities, whether individual, corporate,  
5 association or otherwise of Defendants DOES 1-10, inclusive, are unknown to  
6 Plaintiffs, who otherwise sue these Defendants by such fictitious names. Plaintiffs  
7 will seek leave to amend this complaint to show the true names and capacity of  
8 these Defendants when they have been ascertained. Each of the fictitiously-named  
9 Defendants is responsible in some manner for the conduct or liabilities alleged  
10 herein.

11           18. At all times mentioned herein, each and every defendant was the agent  
12 of each and every other defendant and had the legal duty to oversee and supervise  
13 the hiring, conduct, and employment of each and every defendant.

14           19. All of the acts complained of herein by Plaintiffs against Defendants  
15 were done and performed by said Defendants by and through their authorized  
16 agents, servants, and/or employees, all of whom at all relevant times herein were  
17 acting within the course, purpose, and scope of said agency, service, and/or  
18 employment capacity. Moreover, Defendants and their agents ratified all of the acts  
19 complained of herein.

20           20. DOES 1-10 are sued in their individual capacity.

21           21. Plaintiffs were dependent, to some extent, on DECEDENT for the  
22 necessities of life.

23           22. On or about January 22, 2018, Plaintiffs filed a comprehensive and  
24 timely claim for damages with the County of Los Angeles pursuant to California  
25 Government Code § 911.2.

26           23. On March 22, 2018, the County denied said claim.  
27  
28

**FACTS COMMON TO ALL CLAIMS FOR RELIEF**

24. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 23 of this Complaint with the same force and effect as if fully set forth herein.

25. On August 16, 2017, near the 1300 block of 115<sup>th</sup> Street in the City of Los Angeles, County of Los Angeles, at approximately 7:15 p.m. on that date, DEPUTY ROTHROCK and DOE DEPUTIES detained DECEDENT without reasonable suspicion and arrested him without probable cause. DEPUTY ROTHROCK wrongfully shot 34-year-old DECEDENT, thereby causing DECEDENT serious physical injury, pain and suffering, loss of life, and loss of enjoyment of life. On information and belief, DECEDENT had fallen and was on the ground with nothing in either hand at the time he was shot. The deputies also detained DECEDENT without reasonable suspicion and arrested him without probable cause. On information and belief, the involved deputies also failed to timely summon medical attention after the shooting.

26. At all relevant times, DECEDENT posed no immediate threat of death or bodily injury to any person, including to the involved deputies.

27. DECEDENT suffered at least one gunshot wound. After the shooting, DECEDENT was transported to a hospital where he was pronounced dead.

28. The use of deadly force against DECEDENT was excessive and objectively unreasonable under the circumstances, especially because DECEDENT was unarmed and did not pose an immediate threat of death or serious bodily injury to anyone at the time of the shooting. On the date of the incident, DECEDENT did not physically injure any deputy or any other person.

29. Upon information and belief, Defendants did not timely summon medical care or permit medical personnel to treat DECEDENT. The delay of medical care to DECEDENT was a contributing cause of DECEDENT's death.

1           30. After the shooting, DOE DEPUTIES detained Plaintiff LEWIS SR.  
2 without reasonable suspicion and arrested him without probable cause. DOE  
3 DEPUTIES transported Plaintiff LEWIS SR. from the scene to a sheriff's station  
4 where he was held in a room for at least three hours before he was questioned by  
5 DOE DEPUTIES. After several hours in sheriff's custody, Plaintiff LEWIS SR. was  
6 finally informed that his son had passed and was released shortly thereafter.

7           31. Plaintiffs were dependent on DECEDENT, to some extent, for the  
8 necessities of life.

9           32. Plaintiff K.L. is DECEDENT's successors-in-interest as defined in  
10 Section 377.11 of the California Code of Civil Procedure and succeed to  
11 DECEDENT's interest in this action as the natural son of DECEDENT.

12  
13                           **FIRST CLAIM FOR RELIEF**

14                   **Fourth Amendment—Detention and Arrest (42 U.S.C. § 1983)**

15           (All Plaintiffs against Defendant DEPUTY ROTHROCK and DOE DEPUTIES)

16           33. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
17 through 31 of this Complaint with the same force and effect as if fully set forth  
18 herein.

19           34. Defendants DEPUTY ROTHROCK and DOE DEPUTIES detained  
20 DECEDENT without reasonable suspicion and arrested him without probable cause.

21           35. When Defendants DEPUTY ROTHROCK and DOE DEPUTIES  
22 chased and/or pointed their weapons at DECEDENT, and shot DECEDENT, they  
23 violated DECEDENT's right to be secure in his person against unreasonable  
24 searches and seizures as guaranteed to DECEDENT under the Fourth Amendment  
25 to the United States Constitution and applied to state actors by the Fourteenth  
26 Amendment.

27           36. The conduct of Defendants DEPUTY ROTHROCK and DOE  
28 DEPUTIES was willful, wanton, malicious, and done with reckless disregard for the

1 rights and safety of DECEDENT and therefore warrants the imposition of  
 2 exemplary and punitive damages as to Defendant DEPUTY ROTHROCK and DOE  
 3 DEPUTIES.

4 37. As a result of their misconduct, Defendants DEPUTY ROTHROCK  
 5 and DOE DEPUTIES are liable for DECEDENT's injuries, because they were  
 6 integral participants in the wrongful detention and arrest.

7 38. Plaintiff K.L. brings this claim as successor-in-interest to the  
 8 DECEDENT, and seeks survival damages, including physical and mental pre-death  
 9 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
 10 damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and  
 11 MILLER bring this claim in their individual capacities and seek wrongful death  
 12 damages. Plaintiffs also seek attorney's fees under this claim.

## 13 14 **SECOND CLAIM FOR RELIEF**

### 15 **Fourth Amendment—Detention and Arrest (42 U.S.C. § 1983)**

16 (Plaintiff LEWIS SR. against Defendants DOE DEPUTIES)

17 39. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
 18 through 38 of this Complaint with the same force and effect as if fully set forth  
 19 herein.

20 40. After the shooting, Defendants DOE DEPUTIES detained LEWIS SR.  
 21 without reasonable suspicion and arrested him without probable cause.

22 41. When Defendants DOE DEPUTIES detained LEWIS SR., transported  
 23 him to a sheriff's station, and kept him there for several hours, they violated LEWIS  
 24 SR.'s right to be secure in his person against unreasonable searches and seizures as  
 25 guaranteed to LEWIS SR. under the Fourth Amendment to the United States  
 26 Constitution and applied to state actors by the Fourteenth Amendment.

27 42. The conduct of Defendants DOE DEPUTIES was willful, wanton,  
 28 malicious, and done with reckless disregard for the rights and safety of DECEDENT



1 and therefore warrants the imposition of exemplary and punitive damages as to  
2 Defendant DOE DEPUTIES.

3 43. As a result of their misconduct, Defendants DOE DEPUTIES are liable  
4 for LEWIS SR.'s injuries, because they were integral participants in the wrongful  
5 detention and arrest.

6 44. Plaintiff LEWIS SR. brings this claim in his individual capacity and  
7 seek compensatory damages. Plaintiff also seeks attorney's fees under this claim.

8  
9 **THIRD CLAIM FOR RELIEF**

10 **Fourth Amendment —Excessive Force (42 U.S.C. § 1983)**

11 (By All Plaintiffs against Defendant DEPUTY ROTHROCK)

12 45. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
13 through 43 of this Complaint with the same force and effect as if fully set forth  
14 herein.

15 46. Defendant DEPUTY ROTHROCK used excessive force against  
16 DECEDENT when he shot him. Defendant DEPUTY ROTHROCK's unjustified  
17 shooting deprived DECEDENT of his right to be secure in his person against  
18 unreasonable searches and seizures as guaranteed to DECEDENT under the Fourth  
19 Amendment to the United States Constitution and applied to state actors by the  
20 Fourteenth Amendment.

21 47. As a result of the foregoing, DECEDENT suffered great physical pain  
22 and emotional distress up to the time of his death, loss of enjoyment of life, loss of  
23 life, and loss of earning capacity.

24 48. As a result of his misconduct, Defendant DEPUTY ROTHROCK is  
25 liable for DECEDENT's injuries because he was an integral participant in the use of  
26 excessive force.

27 49. The conduct of Defendant DEPUTY ROTHROCK was willful,  
28 wanton, malicious, and done with reckless disregard for the rights and safety of

1 DECEDENT, and therefore warrants the imposition of exemplary and punitive  
2 damages as to Defendant DEPUTY ROTHROCK.

3 50. The shooting was excessive and unreasonable, and DECEDENT posed  
4 no immediate threat of death or serious bodily injury at the time of the shooting.  
5 Further, Defendant DEPUTY ROTHROCK's shooting and use of force violated his  
6 training and standard police officer training.

7 51. Plaintiff K.L. brings this claim as successor-in-interest to the  
8 DECEDENT, and seeks survival damages, including physical and mental pre-death  
9 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
10 damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and  
11 MILLER bring this claim in their individual capacities and seek wrongful death  
12 damages. Plaintiffs also seek attorney's fees under this claim.

13  
14 **FOURTH CLAIM FOR RELIEF**

15 **Fourth Amendment —Denial of Medical Care (42 U.S.C. § 1983)**

16 (By All Plaintiffs against Defendants DEPUTY ROTHROCK and DOE  
17 DEPUTIES)

18 52. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
19 through 51 of this Complaint with the same force and effect as if fully set forth  
20 herein.

21 53. The denial of medical care by Defendants DEPUTY ROTHROCK and  
22 DOE DEPUTIES deprived DECEDENT of his right to be secure in his person  
23 against unreasonable searches and seizures as guaranteed to DECEDENT under the  
24 Fourth Amendment to the United States Constitution and applied to state actors by  
25 the Fourteenth Amendment.

26 54. As a result of the foregoing, DECEDENT suffered great physical pain  
27 and emotional distress up to the time of his death, loss of enjoyment of life, loss of  
28 life, and loss of earning capacity.

55. Defendants DEPUTY ROTHROCK and DOE DEPUTIES knew that failure to provide timely medical treatment to DECEDENT could result in further significant injury, the unnecessary and wanton infliction of pain, or death, but disregarded that serious medical need, causing DECEDENT great bodily harm and death.

56. The conduct of Defendants DEPUTY ROTHROCK and DOE DEPUTIES was willful, wanton, malicious, and done with reckless disregard for the rights and safety of DECEDENT and therefore warrants the imposition of exemplary and punitive damages as to Defendants DEPUTY ROTHROCK and DOE DEPUTIES.

57. As a result of their misconduct, Defendants DEPUTY ROTHROCK and DOE DEPUTIES are liable for DECEDENT's injuries, either because they were integral participants in the denial of medical care, or because they failed to intervene to prevent these violations.

58. Plaintiff K.L. brings this claim as successor-in-interest to the DECEDENT, and seeks survival damages, including physical and mental pre-death pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and MILLER bring this claim in their individual capacities and seek wrongful death damages. Plaintiffs also seek attorney's fees under this claim.

## FIFTH CLAIM FOR RELIEF

## Substantive Due Process (42 U.S.C. § 1983)

(By All Plaintiffs against Defendants DEPUTY ROTHROCK and DOE  
DEPUTIES)

59. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 58 of this Complaint with the same force and effect as if fully set forth herein.

1           60. Plaintiff K.L. had a cognizable interest under the Due Process Clause of  
2 the Fourteenth Amendment of the United States Constitution to be free from state  
3 actions that deprive him of life, liberty, or property in such a manner as to shock the  
4 conscience, including but not limited to unwarranted state interference in Plaintiff  
5 K.L.'s familial relationship with his father, DECEDENT.

6           61. Plaintiff LEWIS SR. had a cognizable interest under the Due Process  
7 Clause of the Fourteenth Amendment of the United States Constitution to be free  
8 from state actions that deprive him of life, liberty, or property in such a manner as to  
9 shock the conscience, including but not limited to unwarranted state interference in  
10 Plaintiff LEWIS SR.'s familial relationship with his son, DECEDENT.

11           62. Plaintiff MILLER had a cognizable interest under the Due Process  
12 Clause of the Fourteenth Amendment of the United States Constitution to be free  
13 from state actions that deprive her of life, liberty, or property in such a manner as to  
14 shock the conscience, including but not limited to unwarranted state interference in  
15 Plaintiff MILLER's familial relationship with her son, DECEDENT.

16           63. DECEDENT had a cognizable interest under the Due Process Clause of  
17 the Fourteenth Amendment of the United States Constitution to be free from state  
18 actions that deprive him of life, liberty, or property in such a manner as to shock the  
19 conscience.

20           64. The aforementioned actions of Defendants DEPUTY ROTHROCK and  
21 DOE DEPUTIES, along with other undiscovered conduct, shock the conscience, in  
22 that they acted with deliberate indifference to the constitutional rights of  
23 DECEDENT and Plaintiffs, and with purpose to harm unrelated to any legitimate  
24 law enforcement objective.

25           65. As a direct and proximate result of these actions, DECEDENT  
26 experienced pain and suffering and eventually died. DEPUTY ROTHROCK and  
27 DOE DEPUTIES thus violated the substantive due process rights of Plaintiffs to be  
28

1 free from unwarranted interference with their familial relationships with  
2 DECEDENT.

3 66. As a direct and proximate cause of the acts of DEPUTY ROTHROCK  
4 and DOE DEPUTIES, Plaintiffs have suffered emotional distress, mental anguish,  
5 and pain. Plaintiffs have also been deprived of the life-long love, companionship,  
6 comfort, support, society, care, and sustenance of DECEDENT, and will continue to  
7 be so deprived for the remainder of their natural lives.

8 67. The conduct of DEPUTY ROTHROCK and DOE DEPUTIES was  
9 willful, wanton, malicious, and done with reckless disregard for the rights and safety  
10 of DECEDENT and Plaintiffs and therefore warrants the imposition of exemplary  
11 and punitive damages as to Defendants DEPUTY ROTHROCK and DOE  
12 DEPUTIES.

13 68. Plaintiff K.L. brings this claim as successor-in-interest to the  
14 DECEDENT, and seeks survival damages, including physical and mental pre-death  
15 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
16 damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and  
17 MILLER bring this claim in their individual capacities and seek wrongful death  
18 damages. Plaintiffs also seek attorney's fees under this claim.

19  
20 **SIXTH CLAIM FOR RELIEF**

21 **Municipal Liability – Ratification (42 U.S.C. § 1983)**

22 (By All Plaintiffs against Defendants COUNTY and DOES 6-10)

23 69. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
24 through 68 of this Complaint with the same force and effect as if fully set forth  
25 herein.

26 70. Defendants DEPUTY ROTHROCK and DOE DEPUTIES acted under  
27 color of law.  
28

1           71. The acts of Defendants DEPUTY ROTHROCK and DOE DEPUTIES  
2 deprived DECEDENT and Plaintiffs of their particular rights under the United  
3 States Constitution.

4           72. Upon information and belief, a final policymaker, acting under color of  
5 law, who had final policymaking authority concerning the acts of Defendants  
6 DEPUTY ROTHROCK and DOE DEPUTIES, ratified the individual deputies' acts  
7 and the bases for them. Upon information and belief, the final policymaker knew of  
8 and specifically approved of the individual officer defendant's acts.

9           73. Upon information and belief, a final policymaker has determined (or  
10 will determine) that the acts of Defendants DEPUTY ROTHROCK and DOE  
11 DEPUTIES were "within policy."

12           74. Upon information and belief, a final policymaker has ratified the use of  
13 excessive deadly force by their deputies, including finding that use of deadly force  
14 acceptable when juries have found the force to be excessive.

15           75. By reason of the aforementioned acts and omissions, Plaintiffs have  
16 suffered loss of the love, companionship, comfort, care, society, training, guidance,  
17 and past and future support of DECEDENT. The aforementioned acts and  
18 omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life,  
19 and death.

20           76. Accordingly, Defendants COUNTY and DOES 6-10 each are liable to  
21 Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

22           77. Plaintiff K.L. brings this claim as successor-in-interest to the  
23 DECEDENT, and seeks survival damages, including physical and mental pre-death  
24 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
25 damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and  
26 MILLER bring this claim in their individual capacities and seek wrongful death  
27 damages. Plaintiffs also seek attorney's fees under this claim.  
28

**SEVENTH CLAIM FOR RELIEF**

**Municipal Liability – Failure to Train (42 U.S.C. § 1983)**

(By All Plaintiffs against Defendants COUNTY and DOES 6-10)

78. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 77 of this Complaint with the same force and effect as if fully set forth herein.

79. Defendants DEPUTY ROTHROCK and DOE DEPUTIES acted under color of law.

80. The acts of Defendants DEPUTY ROTHROCK and DOE DEPUTIES deprived DECEDENT and Plaintiffs of their particular rights under the United States Constitution.

81. The training policies of Defendant COUNTY were not adequate to train its deputies to handle the usual and recurring situations with which they must deal.

82. Defendant COUNTY was deliberately indifferent to the obvious consequences of its failure to train its deputies adequately.

83. The failure of Defendant COUNTY to provide adequate training caused the deprivation of Plaintiffs' rights by Defendants DEPUTY ROTHROCK and DOE DEPUTIES; that is, Defendants' failure to train is so closely related to the deprivation of Plaintiffs' rights as to be the moving force that caused the ultimate injury.

84. On information and belief, COUNTY failed to train DEPUTY ROTHROCK and DOE DEPUTIES properly and adequately.

85. By reason of the aforementioned acts and omissions, Plaintiffs have suffered loss of the love, companionship, comfort, care, society, training, guidance, and past and future support of DECEDENT. The aforementioned acts and omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life, and death.

86. Accordingly, Defendants COUNTY and DOES 6-10 each are liable to Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

87. Plaintiff K.L. brings this claim as successor-in-interest to the DECEDENT, and seeks survival damages, including physical and mental pre-death pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and MILLER bring this claim in their individual capacities and seek wrongful death damages. Plaintiffs also seek attorney's fees under this claim.

### EIGHTH CLAIM FOR RELIEF

### **Municipal Liability – Unconstitutional Custom or Policy (42 U.S.C. § 1983)**

(By All Plaintiffs against Defendants COUNTY and DOES 6-10)

88. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 87 of this Complaint with the same force and effect as if fully set forth herein.

89. Defendants DEPUTY ROTHROCK and DOE DEPUTIES acted under color of law.

90. Defendants DEPUTY ROTHROCK and DOE DEPUTIES acted pursuant to an expressly adopted official policy or a longstanding practice or custom of the Defendant COUNTY.

91. On information and belief, Defendants DEPUTY ROTHROCK and DOE DEPUTIES were not disciplined, reprimanded, retrained, suspended, or otherwise penalized in connection with DECEDENT's death.

92. Defendants COUNTY, DEPUTY ROTHROCK, and DOE DEPUTIES together with other COUNTY policymakers and supervisors, maintained, inter alia, the following unconstitutional customs, practices, and policies:

- (a) Using excessive force, including excessive deadly force;
- (b) Providing inadequate training regarding the use of deadly force;



- 1 (c) Employing and retaining as sheriff's deputies individuals such as  
2 Defendants DEPUTY ROTHROCK and DOE DEPUTIES who  
3 Defendant COUNTY at all times material herein knew or  
4 reasonably should have known had dangerous propensities for  
5 abusing their authority and for using excessive force;
- 6 (d) Inadequately supervising, training, controlling, assigning, and  
7 disciplining COUNTY deputies, and other personnel, including  
8 Defendants DEPUTY ROTHROCK and DOE DEPUTIES who  
9 Defendant COUNTY knew or in the exercise of reasonable care  
10 should have known had the aforementioned propensities and  
11 character traits;
- 12 (e) Maintaining grossly inadequate procedures for reporting,  
13 supervising, investigating, reviewing, disciplining and  
14 controlling misconduct by COUNTY deputies, Defendants  
15 DEPUTY ROTHROCK and DOE DEPUTIES, including failing  
16 to require deputies involved in the use of force or misconduct to  
17 give statements regarding the incident;
- 18 (f) Failing to adequately discipline COUNTY sheriff's deputies,  
19 including Defendants DEPUTY ROTHROCK and DOE  
20 DEPUTIES for the above-referenced categories of misconduct,  
21 including "slaps on the wrist," discipline that is so slight as to be  
22 out of proportion to the magnitude of the misconduct, and other  
23 inadequate discipline that is tantamount to encouraging  
24 misconduct;
- 25 (g) Announcing that unjustified shootings are "within policy,"  
26 including shootings that were later determined in court to be  
27 unconstitutional;
- 28

- 1 (h) Even where shootings are determined in court to be  
2 unconstitutional, refusing to discipline, terminate, or retrain the  
3 deputies involved;
- 4 (i) Encouraging, accommodating, or facilitating a “blue code of  
5 silence,” “blue shield,” “blue wall,” “blue curtain,” “blue veil,”  
6 or simply “code of silence,” pursuant to which sheriff’s deputies  
7 do not report other deputies’ errors, misconduct, or crimes.  
8 Pursuant to this code of silence, if questioned about an incident  
9 of misconduct involving another officer, while following the  
10 code, the officer being questioned will claim ignorance of the  
11 other officers’ wrongdoing.
- 12 (j) Maintaining a policy of inaction and an attitude of indifference  
13 towards soaring numbers of police shootings, including by  
14 failing to discipline, retrain, investigate, terminate, and  
15 recommend officers for criminal prosecution who participate in  
16 shootings of unarmed people.

17 93. By reason of the aforementioned acts and omissions, Plaintiffs have  
18 suffered loss of the love, companionship, comfort, care, society, training, guidance,  
19 and past and future support of DECEDENT. The aforementioned acts and  
20 omissions also caused DECEDENT’s pain and suffering, loss of enjoyment of life,  
21 and death.

22 94. Defendants COUNTY and DOES 6-10, together with various other  
23 officials, whether named or unnamed, had either actual or constructive knowledge  
24 of the deficient policies, practices and customs alleged in the paragraphs above.  
25 Despite having knowledge as stated above, these defendants condoned, tolerated and  
26 through actions and inactions thereby ratified such policies. Said defendants also  
27 acted with deliberate indifference to the foreseeable effects and consequences of  
28

1 these policies with respect to the constitutional rights of DECEDENT, Plaintiffs,  
2 and other individuals similarly situated.

3 95. By perpetrating, sanctioning, tolerating and ratifying the outrageous  
4 conduct and other wrongful acts, DOES 6-10 acted with intentional, reckless, and  
5 callous disregard for the life of DECEDENT and for DECEDENT's and Plaintiffs'  
6 constitutional rights. Furthermore, the policies, practices, and customs  
7 implemented, maintained, and still tolerated by Defendants COUNTY and DOES 6-  
8 10 were affirmatively linked to and were a significantly influential force behind the  
9 injuries of DECEDENT and Plaintiffs.

10 96. Accordingly, Defendants COUNTY and DOES 6-10 each are liable to  
11 Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

12 97. Plaintiff K.L. brings this claim as successor-in-interest to the  
13 DECEDENT, and seeks survival damages, including physical and mental pre-death  
14 pain and suffering, loss of life, and loss of enjoyment of life, and wrongful death  
15 damages for the violation of DECEDENT's rights. Plaintiffs LEWIS SR. and  
16 MILLER bring this claim in their individual capacities and seek wrongful death  
17 damages. Plaintiffs also seek attorney's fees under this claim.

18  
19 **NINTH CLAIM FOR RELIEF**

20 **False Arrest/False Imprisonment**

21 (By Plaintiff K.L. against Defendants COUNTY, DEPUTY ROTHROCK, and DOE  
22 DEPUTIES)

23 98. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
24 through 97 of this Complaint with the same force and effect as if fully set forth  
25 herein.

26 99. Defendants DEPUTY ROTHROCK and DOE DEPUTIES, while  
27 working as officers for the County of Los Angeles Sheriff's Department and acting  
28 within the course and scope of their duties, intentionally deprived DECEDENT of

1 his freedom of movement by use of force, threats of force, menace, fraud, deceit,  
2 and unreasonable duress. DEPUTY ROTHROCK and DOE DEPUTIES detained  
3 DECEDENT without reasonable suspicion and arrested him without probable cause.

4 100. DECEDENT did not knowingly or voluntarily consent.

5 101. Defendants DEPUTY ROTHROCK and DOE DEPUTIES detained  
6 DECEDENT for an appreciable amount of time by pursuing DECEDENT and  
7 keeping their guns trained on him and making him otherwise feel that he was not  
8 free to leave.

9 102. The conduct of DEPUTY ROTHROCK and DOE DEPUTIES was a  
10 substantial factor in causing the harm to DECEDENT.

11 103. Defendant COUNTY is vicariously liable for the wrongful acts of  
12 Defendants DEPUTY ROTHROCK and DOE DEPUTIES pursuant to section  
13 815.2(a) of the California Government Code, which provides that a public entity is  
14 liable for the injuries caused by its employees within the scope of the employment if  
15 the employee's act would subject him or her to liability.

16 104. The conduct of DEPUTY ROTHROCK and DOE DEPUTIES was  
17 malicious, wanton, oppressive, and accomplished with a conscious disregard for the  
18 rights of DECEDENT, entitling Plaintiffs to an award of exemplary and punitive  
19 damages.

20 105. As a result of their misconduct, Defendants DEPUTY ROTHROCK  
21 and DOE DEPUTIES are liable for DECEDENT's injuries, either because they were  
22 integral participants in the wrongful detention and arrest, or because they failed to  
23 intervene to prevent these violations.

24 106. Plaintiff K.L. brings this claim individually and as successor-in-interest  
25 to DECEDENT, and seeks survival damages, including pre-death physical and  
26 mental pain and suffering, loss of life, and loss of enjoyment of life, and wrongful  
27 death damages under this claim.

28

**NINTH CLAIM FOR RELIEF**

**Battery**

(Wrongful Death)

(By All Plaintiffs against Defendants COUNTY and DEPUTY ROTHROCK)

107. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 106 of this Complaint with the same force and effect as if fully set forth herein.

108. DEPUTY ROTHROCK, while working as a sheriff's deputy for the County of Los Angeles Sheriff's Department, and acting within the course and scope of his duties, intentionally shot DECEDENT multiple times and used unreasonable and excessive force against him. As a result of the actions of DEPUTY ROTHROCK, DECEDENT suffered severe pain and suffering, loss of enjoyment of life, and ultimately died from his injuries. DEPUTY ROTHROCK had no legal justification for using force against DECEDENT, and his use of force while carrying out his duties as a sheriff's deputy was an unreasonable and nonprivileged use of force.

109. As a direct and proximate result of the conduct of DEPUTY ROTHROCK as alleged above, DECEDENT sustained injuries and died from his injuries and also lost his earning capacity. As a direct and proximate result of the conduct of DEPUTY ROTHROCK as alleged above, DECEDENT suffered survival damages pursuant to Code of Civil Procedure Section 377.34.

110. COUNTY is vicariously liable for the wrongful acts of DEPUTY ROTHROCK pursuant to section 815.2(a) of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

111. The conduct of DEPUTY ROTHROCK was malicious, wanton, oppressive, and accomplished with a conscious disregard for the rights of Plaintiffs

1 and DECEDENT, entitling Plaintiff K.L. individually and as successor-in-interest  
2 to DECEDENT and Plaintiffs LEWIS SR. and MILLER, individually, to an award  
3 of exemplary and punitive damages.

4 112. Plaintiff K.L. brings this claim as successor-in-interest to the  
5 DECEDENT, and seeks wrongful death damages for the violation of DECEDENT's  
6 rights. Plaintiffs LEWIS SR. and MILLER bring this claim in their individual  
7 capacities and seek wrongful death damages.

8  
9 **TENTH CLAIM FOR RELIEF**

10 **Negligence**

11 (Wrongful Death)

12 (By All Plaintiffs against all Defendants)

13 113. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
14 through 112 of this Complaint with the same force and effect as if fully set forth  
15 herein.

16 114. Police deputies, including Defendants, have a duty to use reasonable  
17 care to prevent harm or injury to others. This duty includes using appropriate  
18 tactics, giving appropriate commands, giving warnings, and not using any force  
19 unless necessary, using less than lethal options, and only using deadly force as a last  
20 resort.

21 115. Defendants breached this duty of care. Upon information and belief,  
22 the actions and inactions of Defendants were negligent and reckless, including but  
23 not limited to:

- 24 (a) the failure to properly and adequately assess the need to detain,  
25 arrest, and use force or deadly force against DECEDENT;  
26 (b) the negligent tactics and handling of the situation with  
27 DECEDENT, including pre-shooting negligence;  
28

- 1 (c) the negligent detention, arrest, and use of force, including deadly
- 2 force, against DECEDENT;
- 3 (d) the failure to provide prompt medical care to DECEDENT;
- 4 (e) the failure to properly train and supervise employees, both
- 5 professional and non-professional, including DOE DEPUTIES;
- 6 (f) the failure to ensure that adequate numbers of employees with
- 7 appropriate education and training were available to meet the
- 8 needs of and protect the rights of DECEDENT;
- 9 (g) the negligent handling of evidence and witnesses; and
- 10 (h) the negligent communication of information during the incident.

11 116. As a direct and proximate result of Defendants' conduct as alleged  
12 above, and other undiscovered negligent conduct, DECEDENT was caused to suffer  
13 severe pain and suffering and ultimately died. Also as a direct and proximate result  
14 of Defendants' conduct as alleged above, Plaintiffs suffered emotional distress and  
15 mental anguish. Plaintiffs also have been deprived of the life-long love,  
16 companionship, comfort, support, society, care and sustenance of DECEDENT, and  
17 will continue to be so deprived for the remainder of their natural lives.

18 117. COUNTY is vicariously liable for the wrongful acts of Defendants  
19 DEPUTY ROTHROCK and DOE DEPUTIES pursuant to section 815.2(a) of the  
20 California Government Code, which provides that a public entity is liable for the  
21 injuries caused by its employees within the scope of the employment if the  
22 employee's act would subject him or her to liability.

23 118. Plaintiff K.L. brings this claim as successor-in-interest to the  
24 DECEDENT, and seeks wrongful death damages for the violation of DECEDENT's  
25 rights. Plaintiffs LEWIS SR. and MILLER bring this claim in their individual  
26 capacities and seek wrongful death damages.

27 //

28 //

**ELEVENTH CLAIM FOR RELIEF**

**(Violation of Cal. Civil Code § 52.1)**

(By Plaintiff K.L. against all Defendants)

119. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 118 of this Complaint with the same force and effect as if fully set forth herein.

120. California Civil Code, Section 52.1 (the Bane Act), prohibits any person from using violent acts or threatening to commit violent acts in retaliation against another person for exercising that person's constitutional rights.

121. On information and belief, Defendants DEPUTY ROTHROCK and DOE DEPUTIES while working for the COUNTY and acting within the course and scope of their duties, intentionally committed acts of violence against DECEDENT, including by shooting him without justification or excuse, by integrally participating and failing to intervene in the above violence, and by denying him necessary medical care.

122. When Defendant DEPUTY ROTHROCK shot DECEDENT, he interfered with his civil rights to be free from unreasonable searches and seizures, to due process, to equal protection of the laws, to medical care, to be free from state actions that shock the conscience, and to life, liberty, and property.

123. On information and belief, Defendants intentionally and spitefully committed the above acts to discourage DECEDENT from exercising his civil rights, to retaliate against him for invoking such rights, or to prevent him from exercising such rights, which they were fully entitled to enjoy.

124. On information and belief, DECEDENT reasonably believed and understood that the violent acts committed by Defendants DEPUTY ROTHROCK and DOE DEPUTIES were intended to discourage him from exercising the above civil rights, to retaliate against him, or invoking such rights, or to prevent him from exercising such rights.



1           125. Defendants successfully interfered with the above civil rights of  
2 DECEDENT.

3           126. The conduct of Defendants was a substantial factor in causing  
4 DECEDENT's harms, losses, injuries, and damages.

5           127. COUNTY is vicariously liable for the wrongful acts of Defendants  
6 DEPUTY ROTHROCK and DOE DEPUTIES pursuant to section 815.2(a) of the  
7 California Government Code, which provides that a public entity is liable for the  
8 injuries caused by its employees within the scope of the employment if the  
9 employee's act would subject him or her to liability.

10           128. Defendants DOES 6-10 are vicariously liable under California law and  
11 the doctrine of *respondeat superior*.

12           129. The conduct of Defendants was malicious, wanton, oppressive, and  
13 accomplished with a conscious disregard for DECEDENT's rights, justifying an  
14 award of exemplary and punitive damages as to Defendant DEPUTY ROTHROCK  
15 and DOE DEPUTIES.

16           130. Plaintiff K.L. brings this claim as successor-in-interest to DECEDENT  
17 and seeks survival damages, including loss of life and loss of enjoyment of life  
18 under this claim. Plaintiff also seeks attorney's fees under this claim.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs K.L, Kenneth Lewis Sr., and Belinda Miller request entry of judgment in their favor and against Defendants County of Los Angeles, Ryan Rothrock, and Does 1-10, inclusive, as follows:

- A. For compensatory damages in whatever other amount may be proven at trial, including survival damages, which include pre-death pain and suffering, emotional distress, and loss of enjoyment of life, as well as wrongful death damages under federal and state law;
- B. For funeral and burial expenses, and loss of financial support;
- C. For punitive damages against the individual defendants in an amount to be proven at trial;
- D. For statutory damages;
- E. For interest;
- F. For reasonable attorneys' fees, including litigation expenses;
- G. For costs of suit; and
- H. For such further other relief as the Court may deem just, proper, and appropriate.

DATED: March 27, 2019

LAW OFFICES OF DALE K. GALIPO

Bv /s/ Hang D. Le  
Dale K. Galipo  
Hang D. Le  
Attorneys for Plaintiffs

**DEMAND FOR JURY TRIAL**

Plaintiffs hereby demand a trial by jury.

DATED: March 27, 2019

LAW OFFICES OF DALE K. GALIPO

Bv /s/ Hang D. Le

Dale K. Galipo

Hang D. Le

Attorneys for Plaintiffs